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U.S. DISTRICT COURT E.D.N.Y.
★ OCT 14 2005 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

P.M. _____
TIME A.M. _____

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PAUL PALMIERI,

Plaintiff,

01 CV 1399 (SJ)
02 CV 6075 (SJ)

- against -

Order

TOWN OF BABYLON, THE TOWN BOARD
OF BABYLON, RICHARD SCHAFER,
FRANCINE BROWN, STEVE BELLONE,
ELLEN McVEETY, and WAYNE HORSLEY
individually and in the capacity of each as a
Member of the Town Board of Babylon, Town
of Babylon Inspector NORMA VARLEY
individually and in her capacity as Town
Inspector, Town of Babylon Employees,
DEBRAH HEINZ, MARYANN LEARY and
LYNN BIZARRO, individually and in the
capacity of each as Town Employee, PETER
CASSERLY, individually and in his capacity
as Commissioner of Planning and
Development, CAMILLE LUCARINI,
individually and in her capacity as Zoning
Inspector for the TOWN OF BABYLON,
LORI FORTE, individually and in her
capacity as Zoning Inspector for the
TOWN OF BABYLON, DOROTHY
NEWMAN, individually and in her capacity
as Zoning Inspector for the TOWN OF
BABYLON, FRANK J. ALBERTI, ESQ.,
individually and in his capacity as attorney
for the TOWN OF BABYLON, DENNIS H.
COHEN, ESQ., individually and in his
capacity as attorney for the TOWN OF
BABYLON, and any other unknown
agents, assigns and/or employees of the
TOWN OF BABYLON, individually
and in the capacity of each as Town
employee,

Defendants.
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APPEARANCES:

LAW OFFICES OF
TIMOTHY M. McENANEY
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TOWN ATTORNEY'S OFFICE
Town of Babylon
200 East Sunrise Highway
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By: Janice A. Stamm
Lynne A. Bizzarro
Attorneys for Defendants

JOHNSON, Senior District Judge:

During a pretrial conference on September 14, 2005, the Court orally granted a

motion for summary judgment in its entirety for Defendants Town of Babylon and Richard Schaeffer ("Defendants"). Upon further review of the record and briefings, both of which the Court finds materially lacking, as well as — in part — disorganized, the Court vacates its previous order granting summary judgment.

In addition, the Court orders Plaintiff to provide to the Court, as well as to Defendants, the following by October 31, 2005: (1) with respect to Count III (Equal Protection Claim), any "impact statement, studies, reports, adverse analyses and statistical analyses" the Plaintiff indicated were forthcoming (see Plaintiff's Amended Response to Defendants' First Request for Production of Documents, Responses 22-23); and, (2) with respect to Count IV (Takings Claim), documentation reflecting the value of the property located at 396/398 Vespucci Avenue in Copiague, New York, and any such diminution of value solely attributable to the enforcement of Town of Babylon Code § 153-1 through § 153-10, during the relevant time period.

The Court orders Defendants to provide to the Court, as well as to Plaintiff, the following by October 31, 2005: any documentation of the legislative history of Town of Babylon Code § 153-1 through § 153-10, including, but not limited to, statements of intent, hearing transcripts (public or otherwise), reports relied on prior to enactment, statements regarding the relevant code provisions made by town officials either prior to or at the time of enactment, and any relevant media reports issued either before, during or after immediately enactment.

Further, the Court orders both parties to brief in full for the Court by October 31,

2005, the issue of standing with respect to Plaintiff's Fair Housing Act Claim in Count VI.

Finally, the Court orders the parties to appear for a hearing at 9:30 a.m. on November 18, 2005 to discuss, among other matters, the above-mentioned submissions.

For the reasons stated herein, the Court's previous grant of summary judgment in its entirety is VACATED.

SO ORDERED.

Dated: October 3, 2005
Brooklyn, NY

s/SJ

Senior U.S.D.J.